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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

**Liliana Moreno Grijalva,**

Plaintiff,

vs.

**AZ Assisted Living & Memory Care  
LLC**, an Arizona limited liability  
company, and **David Bialek and Annette  
Lorenia Trujillo Bialek**, a Married  
Couple,

Defendants.

No.

**VERIFIED COMPLAINT**

Plaintiff, Liliana Moreno Grijalva (“Plaintiff” or “Liliana Moreno Grijalva”), sues the Defendants AZ Assisted Living & Memory Care LLC and David Bialek and Annette Lorenia Trujillo Bialek (collectively, “Defendants”) and alleges as follows:

**PRELIMINARY STATEMENT**

1. This is an action for unpaid minimum wages, liquidated damages, attorneys’ fees, costs, and interest under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, et seq.; unpaid minimum wage under the Arizona Minimum Wage Act (“AMWA”), Arizona Revised Statutes (“A.R.S.”) Title 23, Chapter 2, Article 8; and

1 unpaid wages under the Arizona Wage Act (“AWA”), A.R.S. Title 23, Chapter 2, Article  
2 7.

3 2. The FLSA was enacted “to protect all covered workers from substandard  
4 wages and oppressive working hours.” Barrentine v. Ark Best Freight Sys. Inc., 450 U.S.  
5 728, 739 (1981). Under the FLSA, employers must pay all non-exempt employees a  
6 minimum wage of pay for all time spent working during their regular 40-hour  
7 workweeks. See 29 U.S.C. § 206(a). Under the FLSA, employers must pay all non-  
8 exempt employees one and one-half their regular rate of pay for all hours worked in  
9 excess of 40 hours in a workweek. See 29 U.S.C § 207.  
10

11  
12 3. The AMWA, A.R.S § 23-363, et seq., establishes a minimum wage within  
13 the State of Arizona.

14 4. The AWA, A.R.S. § 23-350, et seq., establishes standards for wage  
15 payments to employees within the State of Arizona.  
16

### 17 **JURISDICTION AND VENUE**

18 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and  
19 29 U.S.C. § 201, *et seq.* because this civil action arises under the Constitution and law of  
20 the United States. This Court also has subject matter jurisdiction pursuant 28 U.S.C. §  
21 1367 because the state law claims asserted herein are so related to claims in this action  
22 over which this Court has subject matter jurisdiction that they form part of the same case  
23 or controversy under Article III of the United States Constitution.  
24

25 6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(ii) because  
26 acts giving rise to the claims of Plaintiff occurred within the District of Arizona, and  
27

1 Defendants regularly conduct business in and have engaged in the wrongful conduct  
2 alleged herein – and, thus, are subject to personal jurisdiction in – this judicial district.

3 **PARTIES**

4 7. At all times material to the matters alleged in this Complaint, Plaintiff was  
5 an individual residing in Maricopa County, Arizona, and is a former employee of  
6 Defendants.  
7

8 8. At all material times, Defendant AZ Assisted Living & Memory Care LLC  
9 was a limited liability company duly licensed to transact business in the State of Arizona.  
10 At all material times, Defendant AZ Assisted Living & Memory Care LLC does business,  
11 has offices, and/or maintains agents for the transaction of its customary business in  
12 Maricopa County, Arizona.  
13

14 9. At all relevant times, Defendant AZ Assisted Living & Memory Care LLC  
15 owned and operated as “AZ Assisted Living & Memory Care,” an assisted living facility  
16 doing business in Maricopa County, Arizona.  
17

18 10. Under the FLSA, Defendant AZ Assisted Living & Memory Care LLC is  
19 an employer. The FLSA defines “employer” as any person who acts directly or indirectly  
20 in the interest of an employer in relation to an employee. At all relevant times, Defendant  
21 AZ Assisted Living & Memory Care LLC had the authority to hire and fire employees,  
22 supervised and controlled work schedules or the conditions of employment, determined  
23 the rate and method of payment, and maintained employment records in connection with  
24 Plaintiff’s employment with Defendants. As a person who acted in the interest of  
25  
26  
27

1 Defendants in relation to their employees, Defendant AZ Assisted Living & Memory  
2 Care LLC is subject to liability under the FLSA.

3 11. Defendants David Bialek and Annette Lorenia Trujillo Bialek are, upon  
4 information and belief, husband and wife. They have caused events to take place giving  
5 rise to the claims in this Complaint as to which their marital community is fully liable.  
6 David Bialek and Annette Lorenia Trujillo Bialek are owners of Defendant AZ Assisted  
7 Living & Memory Care LLC and were at all relevant times Plaintiff's employers as  
8 defined by the FLSA, 29 U.S.C. § 203(d).  
9  
10

11 12. Under the FLSA, Defendants David Bialek and Annette Lorenia Trujillo  
12 Bialek are employers. The FLSA defines "employer" as any person who acts directly or  
13 indirectly in the interest of an employer in relation to an employee. At all relevant times,  
14 Defendants David Bialek and Annette Lorenia Trujillo Bialek had the authority to hire  
15 and fire employees, supervised and controlled work schedules or the conditions of  
16 employment, determined the rate and method of payment, and maintained employment  
17 records in connection with Plaintiff's employment with Defendants. As persons who  
18 acted in the interest of Defendants in relation to their employees, Defendants David  
19 Bialek and Annette Lorenia Trujillo Bialek are subject to individual liability under the  
20 FLSA.  
21  
22

23 13. Plaintiff is further informed, believes, and therefore alleges that each of the  
24 Defendants herein gave consent to, ratified, and authorized the acts of all other  
25 Defendants, as alleged herein.  
26  
27

1           14. Defendants, and each of them, are sued in both their individual and  
2 corporate capacities.

3           15. Defendants are jointly and severally liable for the injuries and damages  
4 sustained by Plaintiff.  
5

6           16. At all relevant times, Plaintiff was an “employee” of Defendants as defined  
7 by the FLSA, 29 U.S.C. § 201, *et seq.*

8           17. The provisions set forth in the FLSA, 29 U.S.C. § 201, *et seq.*, apply to  
9 Defendants.  
10

11           18. At all relevant times, Defendants were and continue to be “employers” as  
12 defined by the FLSA, 29 U.S.C. § 201, *et seq.*

13           19. The provisions set forth in the A.R.S. Title 23, Articles 7 and 8 apply to  
14 Defendants.  
15

16           20. At all relevant times, Plaintiff was an “employee” of Defendants as defined  
17 by A.R.S. § 23-362.

18           21. At all relevant times, Defendants were and continue to be “employers” of  
19 Plaintiff as defined by A.R.S. § 23-362.  
20

21           22. Defendants individually and/or through an enterprise or agent, directed and  
22 exercised control over Plaintiff’s work and wages at all relevant times.

23           23. Plaintiff, in her work for Defendants, was employed by an enterprise  
24 engaged in commerce that had annual gross sales of at least \$500,000.  
25

26           24. At all relevant times, Plaintiff, in her work for Defendants, was engaged in  
27 commerce or the production of goods for commerce.

1           25. At all relevant times, Plaintiff, in her work for Defendants, was engaged in  
2 interstate commerce.

3           26. Plaintiff, in her work for Defendants, regularly handled goods produced or  
4 transported in interstate commerce.

5  
6                                   **FACTUAL ALLEGATIONS**

7           27. Defendants own and/or operate as AZ Assisted Living & Memory Care, an  
8 enterprise doing business in Maricopa County, Arizona.

9           28. Defendant AZ Assisted Living & Memory Care LLC operates assisted  
10 living facility doing business in Maricopa County, Arizona.

11  
12           29. At all relevant times, Defendant AZ Assisted Living & Memory Care LLC  
13 operated at 2062 North 139<sup>th</sup> Drive, Goodyear, Arizona 85395.

14           30. Plaintiff was hired by Defendants and began working on about September  
15 12, 2022 and worked two shifts during a single workweek.

16  
17           31. At all relevant times, Plaintiff worked for Defendants from September 12,  
18 2022 through September 13, 2022.

19           32. At all relevant times, in her work for Defendants, Plaintiff worked as a  
20 caretaker for the elderly.

21  
22           33. Defendants, in their sole discretion, agreed to pay Plaintiff a daily rate of  
23 \$85.

24           34. Upon information and belief, Plaintiff worked approximately 26 hours in  
25 her sole workweek of employment with Defendant.  
26  
27

1           35. Defendants failed to compensate Plaintiff any wage whatsoever for the  
2 hours she spent working for Defendants during the sole workweek of her employment  
3 with Defendant.

4           36. On or about September 13, 2022, Plaintiff left her employment with  
5 Defendants.  
6

7           37. Shortly after she left the company, Plaintiff went to Defendants' facility  
8 and asked to be paid on two different occasions.

9           38. In response to Plaintiff's request that Defendants pay her, they stated that  
10 the time she worked was training and therefore ineligible for compensation.  
11

12           39. Defendants had Plaintiff's mailing address but never mailed Plaintiff a  
13 check for the wages she had earned.

14           40. Indeed, Defendants did not pay Plaintiff any wage whatsoever for the time  
15 she worked for Defendants.  
16

17           41. As a result of not having paid any wage whatsoever to Plaintiff during her  
18 sole workweek of employment with Defendants, Defendants failed to pay the applicable  
19 minimum wage to Plaintiff.  
20

21           42. As a result of Defendants' failure to compensate Plaintiff any wage  
22 whatsoever her final week of work, Defendants violated 29 U.S.C. § 206(a).

23           43. As a result of Defendants' failure to compensate Plaintiff any wage  
24 whatsoever for her final week of work, Defendants violated the AMWA, A.R.S. § 23-  
25 363.  
26  
27

1           44. As a result of Defendants' failure to compensate Plaintiff any wage  
2 whatsoever for her final week of work, Defendants violated the AWA, A.R.S., § 23-351.

3           45. Plaintiff was a non-exempt employee.

4           46. Defendants refused and/or failed to properly disclose to or apprise Plaintiff  
5 of her rights under the FLSA.  
6

7           47. Plaintiff is a covered employee within the meaning of the FLSA.

8           48. Defendants refused and/or failed to properly disclose to or apprise Plaintiff  
9 of her rights under the FLSA.  
10

11           49. Defendants individually and/or through an enterprise or agent, directed and  
12 exercised control over Plaintiff's work and wages at all relevant times.

13           50. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover  
14 from Defendants compensation for unpaid minimum wages, an additional amount equal  
15 amount as liquidated damages, interest, and reasonable attorney's fees and costs of this  
16 action under 29 U.S.C. § 216(b).  
17

18           51. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover  
19 from Defendants compensation for unpaid wages, an additional amount equal to twice the  
20 unpaid minimum wages as liquidated damages, interest, and reasonable attorney's fees  
21 and costs of this action under A.R.S § 23-364.  
22

23           52. Due to Defendants' illegal wage practices, Plaintiff is entitled to recover  
24 from Defendants compensation for her unpaid wages at an hourly rate, to be proven at  
25 trial, in an amount that is treble the amount of her unpaid wages, plus interest thereon,  
26 and her costs incurred under A.R.S. § 23-355.  
27



**COUNT ONE: FAIR LABOR STANDARDS ACT**  
**FAILURE TO PAY MINIMUM WAGE**

53. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

54. As a result of not paying Plaintiff any wage whatsoever for the hours she worked in her sole workweek of employment, Defendants failed or refused to pay Plaintiff the FLSA-mandated minimum wage.

55. Defendants' practice of failing or refusing to pay Plaintiff at the required minimum wage rate violated the FLSA, 29 U.S.C. § 206(a).

56. Plaintiff is therefore entitled to compensation for the full applicable minimum wage at an hourly rate, to be proven at trial, plus an additional equal amount as liquidated damages, together with interest, reasonable attorney's fees, and costs.

**WHEREFORE**, Plaintiff, Liliana Moreno Grijalva, respectfully requests that this Court grant the following relief in Plaintiff's favor, and against Defendants:

- A. For the Court to declare and find that the Defendants violated minimum wage provisions of the FLSA, 29 U.S.C. § 206(a) by failing to pay proper minimum wages;
- B. For the Court to award Plaintiff's unpaid minimum wage damages, to be determined at trial;
- C. For the Court to award compensatory damages, including liquidated damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;
- D. For the Court to award prejudgment and post-judgment interest;

1 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the  
2 action pursuant to 29 U.S.C. § 216(b) and all other causes of action set  
3 forth herein;

4 F. Such other relief as this Court shall deem just and proper.  
5

6 **COUNT TWO: ARIZONA MINIMUM WAGE ACT**  
7 **FAILURE TO PAY MINIMUM WAGE**

8 57. Plaintiff realleges and incorporates by reference all allegations in all  
9 preceding paragraphs.

10 58. As a result of not paying Plaintiff any wage whatsoever for the hours she  
11 worked in her sole workweek of employment, Defendants failed or refused to pay  
12 Plaintiff the Arizona minimum wage.  
13

14 59. Defendant's practice of failing or refusing to pay Plaintiff at the required  
15 minimum wage rate violated the AMWA, 23-363.

16 60. Plaintiff is therefore entitled to compensation for the full applicable  
17 minimum wage at an hourly rate, to be proven at trial, plus an additional amount equal to  
18 twice the underpaid wages as liquidated damages, together with interest, reasonable  
19 attorney's fees, and costs.  
20

21 **WHEREFORE**, Plaintiff, Liliana Moreno Grijalva, respectfully requests that this  
22 Court grant the following relief in Plaintiff's favor, and against Defendants:  
23

24 A. For the Court to declare and find that the Defendant violated minimum  
25 wage provisions of the AMWA, A.R.S. § 23-363 by failing to pay proper  
26 minimum wages;  
27

1 B. For the Court to award Plaintiff's unpaid minimum wage damages, to be  
2 determined at trial;

3 C. For the Court to award compensatory damages, including liquidated  
4 damages pursuant to A.R.S. § 23-364, to be determined at trial;

5 D. For the Court to award prejudgment and post-judgment interest;

6 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the  
7 action pursuant to A.R.S. § 23-364 and all other causes of action set forth  
8 herein;  
9

10 F. Such other relief as this Court shall deem just and proper.  
11

12 **COUNT THREE: ARIZONA WAGE ACT**  
13 **FAILURE TO PAY WAGES DUE AND OWING**  
14 **DEFENDANT AZ ASSISTED LIVING & MEMORY CARE LLC ONLY**

15 61. Plaintiff realleges and incorporates by reference all allegations in all  
16 preceding paragraphs.

17 62. As a result of the allegations contained herein, Defendant AZ Assisted  
18 Living & Memory Care LLC did not compensate Plaintiff wages due and owing to her.

19 63. Defendant AZ Assisted Living & Memory Care LLC engaged in such  
20 conduct in direct violation of A.R.S. § 23-350.  
21

22 64. As such, unpaid wages for such time Plaintiff worked are owed to Plaintiff  
23 for the entire time she was employed by Defendant AZ Assisted Living & Memory Care  
24 LLC.  
25  
26  
27



1 RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of October, 2022.

2  
3 BENDAU & BENDAU PLLC

4 By: /s/ Clifford P. Bendau, II

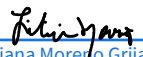
5 Clifford P. Bendau, II

6 Christopher J. Bendau

7 *Attorneys for Plaintiff*

**VERIFICATION**

1  
2 Plaintiff, Liliana Moreno Grijalva, declares under penalty of perjury that she has  
3 read the foregoing Verified Complaint and is familiar with the contents thereof. The  
4 matters asserted therein are true and based on her personal knowledge, except as to those  
5 matters stated upon information and belief, and, as to those matters, she believes them to  
6 be true.  
7

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9   
10 Liliana Moreno Grijalva (Oct 7, 2022 14:01 PDT)  
11 Liliana Moreno Grijalva  
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